



Florida Department of
ENVIRONMENTAL PROTECTION

Attachment # 12
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Memorandum

TO: File
THROUGH: Tom Franklin *TF*
THROUGH: Michael Hogan *MH*
FROM: Craig McCammon *CCM*
SUBJECT: Little Lake Jackson Violation meeting summary
DATE: September 28, 2004

On September 28, 2004, Department Staff conducted an enforcement meeting regarding the violation located on Mary Sellers' property, which connects to Little Lake Jackson. The meeting was to first determine whether this project would be in DEP jurisdiction or Northwest Florida Water Management District (NFWFMD) jurisdiction and second, to determine the corrective measures DEP would require the property owner to take.

NFWFMD determined that this project was not agriculture in nature and therefore becomes DEP jurisdiction.

DEP discussed with the property owner, developers, and complaints, on how this case can be resolved. DEP determined that the berm must be removed and reconnection to Little Lake Jackson must be established. Also the property owner would be instructed to pay a penalty for violating DEP Statutes and Rules and for failure to apply for a permit to construct in DEP jurisdictional wetlands.

A secondary issue discussed was if the berm were to be removed, the property owner and developer believe that the wetland will drain; the complainants believe that the wetland will keep its current condition and continue to function as a wetland.

As stated previously, DEP has determined that the berm is to be removed and a fine is to be paid to the Department.

BOARD OF COUNTY COMMISSIONERS

MEMORANDUM

DATE: August 19, 2004

TO: Parwez Alam, County Administrator

THROUGH: Gary W. Johnson, Director of Growth and Environmental Management

FROM: John Kraynak, Director of Environmental Compliance

SUBJECT: Violation on the Mary Sellers Property
Parcel ID 21-04-51-000-0120

This in response to the August 9, 2004 e-mail by Mr. Mathew J. Aresco regarding the violation on the Sellers property, currently in site plan for a conceptual PUD, and referred to as the Summerfield PUD. The Board and the Development Review Committee (DRC) members were copied on this e-mail and have also been copied on this memorandum.

In the mid 1900's, a long and deep drainage ditch (altered watercourse) was excavated from a wetland depression on the Sellers property west to Little Lake Jackson (see Attachment #1). This ditch was built to help drain the land (including the wetland) contained in a closed basin on the Sellers property. This drainage allowed farming of the bottom of the closed basin. The ditch created a man-made artificial drainage connection from the previously closed basin to Little Lake Jackson, thus turning the basin into an "open" drainage basin. Stormwater runoff flowed from the agricultural fields and the wetland (which was often partially farmed) into the ditch and then into Little Lake Jackson. The ditch also drained the wetland depression, adversely impacting the wetland's hydroperiod and allowing this wetland to be farmed (pasture, grain crops) on occasions.

Sometime last year, the eastern-most segment of the ditch was filled and the area around the degraded wetland was graded to essentially create a berm along the downstream side of the wetland and adjacent field (see Attachment #1 for location where ditch was filled). County Environmental Review staff discovered this during the course of reviewing a Natural Features Inventory submitted for the Sellers property. A Notice of Violation and Stop Work Order was issued to the property owner, Ms. Mary Sellers, on October 24, 2003 for unauthorized development activities (filling of an altered watercourse, potential impacts to a wetland, topographic alterations). The Environmental Management Act (EMA) requires a person to apply for and obtain an Environmental Management Permit before undertaking such activities.

In response to the County's violation letter, the property owner's son wrote that the ditch had been closed and bermed off as part of their farming operation to essentially correct the stormwater runoff problem created when the ditch was originally built (see Attachment #2).

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Staff reviewed this letter and further researched existing site conditions and historic area conditions. Staff found that the filling of the man-made ditch actually restores the area closer to what it was like over 40 years ago. It restored the approximate boundaries of the former closed basin, creating a "new" closed drainage basin on the Sellers property in an area that was previously mapped as part of the Little Perkins Road watershed only because of the drainage ditch. Closing the ditch and restoring the closed basin prevents sediment and various pollutants (fertilizers, pesticides, animal wastes) from discharging straight from the Sellers farmlands into Little Lake Jackson. It also captures some untreated runoff from the residential lots on the eastern end of Lakeside Subdivision. Now the closed basin on the Sellers property provides the best water quality protection for the lake by holding stormwater runoff for all storm events up to and including the 100-year rainfall event. This protection provides better stormwater treatment than the Lake Jackson lake protection stormwater standard.

The objectives of the EMA include: protection of natural systems to avoid impairment of their beneficial functions (Section 10-169(1)b), and; the elimination or minimization of transport of sediments and other pollutants to receiving waters (Section 10-169(2)c). Watershed conservation measures called for in the EMA were established for the protection of water quality in the Lake Jackson basin (Section 10-191(a)). One of the goals of the Comprehensive Plan is to protect and enhance natural surface water bodies (Goal 2 of Conservation Element). Comprehensive Plan objectives include: maintaining water quality in order to meet local or state standards (Objective 2.2 of Conservation Element), and; preventing any further degradation of Lake Jackson, plus returning water quality in the lake to its condition at the time of Outstanding Florida Waters designation (Objective 2.3 of Conservation Element).

The EMA allows development impacts to altered watercourses (Section 10-346(a)(2)b.4). In this case, staff concluded that the filling of the ditch and associated topographic alterations could have been authorized by an Environmental Management Permit. Closing the ditch resulted in a net environmental benefit in keeping with objectives and regulations contained in the EMA and consistent with the goals and objectives set forth in the Comprehensive Plan. Requiring the property owner to restore the ditch connection would be detrimental to the water quality in Little Lake Jackson. Requiring the property owner to obtain an "after-the-fact" permit to authorize the work already completed did not seem a reasonable course of action in this case. Hence, in consideration of the preceding issues, the property farmer's statements, and the net environmental benefit resulting from closing the drainage ditch, staff advised the Sellers that the Notice of Violation was withdrawn and no further action was required.

cc: Board of County Commissioners
Commission Aides
Mathew J. Aresco
Wayne Tedder
Tony Park
David McDevitt
Bob Bass
Clay Carithers